

**SUBSTITUTE FOR  
HOUSE BILL NO. 4864**

A bill to amend 1937 PA 284, entitled

"An act to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers' proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act,"

by amending section 3 (MCL 287.123), as amended by 2004 PA 279.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3. (1) A person desiring to act as a dealer, broker, or  
2 agent shall file an application with the department for a license  
3 to engage in the business of dealer, broker, or agent. The  
4 application shall state the nature of the business, the mailing

address of the applicant, and the mailing address at or from which the business is to be conducted. If the applicant desires to operate a livestock yard where livestock is kept and sold at public or private sale, the application shall so state. The application may state additional information as requested by the director.

(2) Subject to subsection ~~(5) and beginning October 1, 2003 through September 30, 2007~~ **(7) AND UNTIL SEPTEMBER 30, 2012**, the department shall charge and collect the following fees for initial and renewal license applications: ~~which shall be deposited into the general fund.~~

(a) Class I (livestock auction).....	\$ 400.00.
(b) Class II (collection point/buying station).....	\$ 250.00.
(c) Class III (horse auction).....	\$ 150.00.
(d) Class IV (dealer/broker/agent).....	\$ 50.00.

(3) Subject to subsection ~~(5) and through September 30, 2003 or~~ **(7) AND** after September 30, ~~2007~~ **2012**, the only fee the department shall charge and collect for the issuance and renewal of licenses under this section is a fee of \$5.00 for a dealer, broker, or agent license.

**(4) THE DEPARTMENT SHALL DEPOSIT ADMINISTRATIVE AND NONCRIMINAL FINES RECEIVED UNDER THIS ACT AND LICENSE OR OTHER ADMINISTRATIVE FEES RECEIVED UNDER THIS SECTION INTO THE AGRICULTURE LICENSING AND INSPECTION FEES FUND CREATED IN SECTION 9 OF THE INSECT PEST AND PLANT DISEASE ACT, 1931 PA 189, MCL**

1 286.209, TO BE USED, PURSUANT TO APPROPRIATION, BY THE DIRECTOR  
2 IN ADMINISTERING AND CARRYING OUT THOSE DUTIES REQUIRED BY LAW  
3 UNDER THIS ACT.

4 (5) ~~(4)~~—A licensee who buys or sells livestock by weight  
5 shall employ a registered weighmaster to do all the weighing. The  
6 duties, qualifications, and requirements for registration of  
7 weighmasters shall be established by the director by promulgation  
8 of a rule under section 9.

9 (6) ~~(5)~~—~~Beginning the effective date of the amendatory act~~  
10 ~~that added this subsection~~ **JULY 23, 2004**, the department shall  
11 issue an initial or renewal dealer, broker, agent, livestock  
12 auction, collecting point/buying station, and horse auction  
13 license not later than 90 days after the applicant files a  
14 completed application. Receipt of the application is considered  
15 the date the application is received by any agency or department  
16 of the state of Michigan. If the application is considered  
17 incomplete by the department, the department shall notify the  
18 applicant in writing, or make the information electronically  
19 available, within 30 days after receipt of the incomplete  
20 application, describing the deficiency and requesting the  
21 additional information. The 90-day period is tolled upon  
22 notification by the department of a deficiency until the date the  
23 requested information is received by the department. The  
24 determination of the completeness of an application does not  
25 operate as an approval of the application for the license and  
26 does not confer eligibility of an applicant determined otherwise  
27 ineligible for issuance of a license.

1       (7) ~~(6)~~—If the department fails to issue or deny a license  
2 within the time required by this section, the department shall  
3 return the license fee and shall reduce the license fee for the  
4 applicant's next renewal application, if any, by 15%. The failure  
5 to issue a license within the time required under this subsection  
6 does not allow the department to otherwise delay the processing  
7 of the application, and that application, upon completion, shall  
8 be placed in sequence with other completed applications received  
9 at that same time. The department shall not discriminate against  
10 an applicant in the processing of the application based upon the  
11 fact that the license fee was refunded or discounted under this  
12 subsection.

13       (8) ~~(7)~~—Beginning October 1, 2005, the director shall submit  
14 a report by December 1 of each year to the standing committees  
15 and appropriations subcommittees of the senate and house of  
16 representatives concerned with agriculture issues. The director  
17 shall include all of the following information in the report  
18 concerning the preceding fiscal year:

19       (a) The number of initial and renewal applications the  
20 department received and completed within the 90-day time period  
21 described in subsection ~~(5)~~—(6).

22       (b) The number of applications denied.

23       (c) The number of applicants not issued a license within the  
24 90-day time period and the amount of money returned to licensees  
25 and registrants under subsection ~~(6)~~—(7).

26       (9) ~~(8)~~—The application for that license and bond shall be  
27 submitted to the director on or before October 1 of each year.

Each license issued under this section shall be for a period of 1 year commencing October 1 and ending the following September 30.

(10) ~~(9)~~—Each dealer, broker, or agent operating or conducting a livestock auction shall file with his or her application for a license a surety bond effective during the period for which the license is issued. The surety bond shall be issued by a surety company registered in this state to indemnify persons from whom livestock is purchased or for whom livestock is sold or other security and in such amounts, form, and sufficiency as approved by the director. The amount of the bond shall be an amount equal to the amount of gross dollar volume of livestock business conducted during the average week of the previous licensing year by the applicant, but in no case less than \$1,500.00. If the average gross weekly livestock business conducted by the applicant during the previous licensing year was greater than \$25,000.00, the bond shall be increased above \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part thereof above \$25,000.00 on the average gross dollar-volume of weekly livestock business conducted during the previous year. A licensee who owns or operates more than 1 livestock yard or livestock auction may file 1 bond in an amount determined by the formula described in this subsection. Any dealer, broker, or agent operating or conducting a livestock yard or livestock auction who has filed a surety bond for the livestock yard or livestock auction and indemnifies persons from whom livestock is purchased or for whom livestock is sold in accordance with the terms of any federal act is exempt from the bonding requirements

1 of this subsection provided the bond is equivalent in amount to  
2 that which would be required by this act. The bond shall be for a  
3 dealer or broker and his or her agents in which the department is  
4 the obligee for the benefit and purpose of protecting all persons  
5 selling or consigning livestock to the licensed dealer, broker,  
6 or agent against the licensed dealer's, broker's, or agent's  
7 failure to pay amounts due on livestock purchased by or consigned  
8 to them.

9       (11) ~~(10)~~—Each licensee shall keep records and shall  
10 furnish, upon request, information concerning his or her  
11 purchases and sales as may be required by the director for the  
12 purpose of establishing the amount of bond required under  
13 subsection ~~(9)~~—(10). The director, in fixing the amount of the  
14 bond, shall take into consideration the dollar volume of  
15 livestock business and other information furnished by the dealer,  
16 broker, or his or her agent. If a dealer, broker, or agent did  
17 not operate a livestock auction the previous licensing year, the  
18 bond shall be for an amount as shall be established by the  
19 director after consideration of all information available on the  
20 probable weekly gross dollar volume of business to be conducted  
21 by the dealer, broker, or agent during the licensing year.

22       (12) ~~(11)~~—If during any licensing year the bond filed by any  
23 licensee becomes less than required by this act because of an  
24 increase in gross dollar volume of livestock sales, the director  
25 may issue an order requiring the licensee to file an additional  
26 bond to cover the increase in gross dollar volume of livestock  
27 sales. Failure to comply with the orders of the director is

1 grounds for suspension or revocation of license. A bond shall be  
2 conditioned upon the faithful performance of the licensee's  
3 duties as a dealer or broker and on the provisions of law  
4 relating to the purchase of livestock by the dealer or broker and  
5 for the payment by the dealer or broker of all livestock  
6 purchased by or consigned to the dealer or broker as a dealer or  
7 broker in livestock.

8       (13) ~~(12)~~—A license issued under this section allows the  
9 holder to conduct the business of dealer or broker at or from the  
10 place named in the application. A legal entity engaged in the  
11 business of transporting livestock or negotiating or soliciting  
12 the transportation or transfer of livestock that is not engaged  
13 in the buying, selling, reselling, exchanging, negotiating, or  
14 soliciting the sale, resale, or exchange of livestock must obtain  
15 a license under this section but is not required to comply with  
16 bonding provisions of this section.

17       (14) ~~(13)~~—A dealer, broker, or agent shall keep adequate  
18 records of the producers' proceeds account in compliance with  
19 section 3a and of all sales and purchases for a period of 2–5  
20 years in the manner required by the director. The records shall  
21 be open to reasonable inspection by the department.

22       (15) ~~(14)~~—A dealer, broker, or agent shall notify the  
23 director of a change of address within 5 days after that change.  
24 Any change in ownership of any livestock auction or market shall  
25 be reported to the director within 5 days by the licensee. Each  
26 dealer or broker shall file with the director on January 1 of  
27 each year a sworn statement of average weekly sales and a

1 statement showing the number and kinds of livestock purchased and  
2 sold during the previous year.

3       **(16)** ~~(15)~~—As used in this section, "completed application"  
4 means an application complete on its face and submitted with any  
5 applicable licensing fees as well as any other information,  
6 records, approval, security, or similar item required by law or  
7 rule from a local unit of government, a federal agency, or a  
8 private entity but not from another department or agency of the  
9 state of Michigan.

10       Enacting section 1. This amendatory act does not take effect  
11 unless House Bill No. 4862 of the 94th Legislature is enacted  
12 into law.